

REMARKS

This Amendment is being filed in response to the Final Office Action mailed July 21, 2008, which has been reviewed and carefully considered.

By means of the present amendment, claim 4 has been canceled without prejudice and its features included in independent claim 1. Accordingly, no new issues requiring a new search have been introduced and entry of the present Amendment is respectfully requested.

In the Final Office Action, claims 1-6 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 and 8 of a copending Application No. 10/509,455 in view of U.S. Patent Application Publication No. 2001/0016242 in view of (Miyamoto). It is believed that this rejection should be a provisional rejection as the copending Application No. 10/509,455 has not matured into a patent. The Examiner indicated that a terminal disclaimer may be used to overcome this rejection. This rejection is also respectfully traversed. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of

any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

In the Final Office Action, 1-3 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent Application Publication No. 2001/0016242 in view of (Miyamoto) U.S. Patent No. 4,967,192 (Kaneko). Further, claims 4-7 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Miyamoto in view of Kaneko and U.S. Patent No. 6,067,312 (Matz). Claims 8-10 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Miyamoto in view of U.S. Patent Application Publication No. 2004/0043254 (Matz). It is respectfully submitted that claims 1-3 and 5-10 are patentable over Miyamoto, Kaneko and Matz for at least the following reasons.

On page 11 of the Final Office Action, the Examiner correctly noted that Miyamoto and Kaneko do not disclose or suggest the features of claim 4, such as third and fourth layer stacks. Matz is cited in an attempt to remedy the deficiencies in Miyamoto and Kaneko.

At the outset, it is respectfully submitted that Matz is directed to a laser diode having a coupled optical waveguide, and

has nothing to do with a storage medium, as recited in independent claim 1, and thus one skilled in the of storage media would not be motivated to combine the Matz's diode with any storage media. There is simply no motivation or suggestion to combine the storage media of Miyamoto and Kaneko with the Matz laser diode, as they are unrelated.

Assuming, arguendo, the combination of Miyamoto, Kaneko and Matz is proper, such as combination merely shows two layers, namely, read-only-memory (ROM) and rewritable type information layers shown in FIGs 1-2 of Kaneko, and additional layer stacks disclosed in Matz that include a laser-active layer, a layer with grating, an optically conductive layer, and an electrical contact.

It is respectfully submitted that Miyamoto, Kaneko, Matz, and combinations thereof, do not teach or suggest the present invention as recited in independent claim 1 which, amongst other patentable elements, recites (illustrative emphasis provided):

the first information layer is one selected from the group of types consisting of a read only layer and a write once layer, and that

the second information layer is one selected from the group of types consisting of a read only layer, a write once layer and a rewritable layer, ...

wherein the medium further comprises a second radiation beam entrance face opposite from the first

radiation beam entrance face and a third layer stack, comprising a third information layer selected from the group consisting of a read only layer and a write once layer, a fourth layer stack, comprising a fourth information layer selected from the group consisting of a read only layer, a write once layer and a rewritable layer, said third layer stack being present at a position closer to the second radiation beam entrance face than the fourth layer stack, a second transparent spacer layer between the third layer stack and the fourth layer stack, and that the type of the third information layer is different from the type of the fourth information layer.

The particular arrangement and types of the four layers recited in independent claim 1 are nowhere disclosed or suggested in Miyamoto, Kaneko and Matz, alone or in combination.

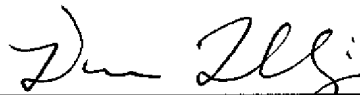
Accordingly, it is respectfully submitted that independent claim 1 should be allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-3 and 4-10 should also be allowed at least based on their dependence from amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to

submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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